

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

Bail Appl..No. 5892 of 2007()

AGAINST THE ORDER DATED 15/09/2007 IN CMP. 351 /2007 IN
CMP.3451/2007 of J.M.F.C.-IV,KOZHIKODE
CRIME NO.241/07 OF NADAKKAVU POLICE STATION
.....

: PETITIONERS/ACCUSED 1 & 5

1. HARI JOHN, S/O.LATE YOHANNAN,
MARANGOTTU VADAKKETHIL HOUSE, KAPPIL,
KRISHNAPURAM P.O., ALAPPUZHA DISTRICT.
2. SURESH, S/O.SUKUMARAN, KODAKKUZHI
THEKKETHIL HOUSE, KRISHNAPURAM P.O.,
KAPPIL, ALAPPUZHA DISTRICT.

BY ADV. SRI.K.B.ARUNKUMAR

RESPONDENTS: STATE & COMPLAINANT

1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
2. SUB INSPECTOR OF POLICE, NADAKKAVU
POLICE STATION, KOZHIKODE DISTRICT.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

B.A.No.5892 of 2007

Dated this the 8th day of October, 2007

ORDER

Application for regular bail. Petitioners are accused 1 and 5. They face allegations in a crime registered for offences punishable, inter alia, under Sections 407 and 468 I.P.C. The crux of the allegations raised in the crime is that a consignment of rubber sheets entrusted by M/s.M.R.F at Calicut for transportation to their depot at Kottayam was misappropriated and taken away by the accused persons.

2. The transportation is done through lorries. The defacto complainant/union undertakes the responsibility of furnishing vehicles for transportation to various transporters. It is alleged that one M/s.Cosmos Transport was responsible for the transportation of the consignment of M.R.F from Calicut to Kottayam. The lorry in question was furnished to M/s.Cosmos Transport by the complainant/union. It was revealed that the consignment had not reached Kottayam within the expected period. The defacto complainant was contacted. The defacto complainant then started making enquiries. It was revealed that accused 1 and 5, the petitioners herein, had gone to the lorry at the check post at Feroke. It is alleged that accused 1 and 5 had led

the lorry not to its destination but to some other place and they had misappropriated the consignment which was transported in the vehicle. The consignment has not been traced so far. The driver and the cleaner of the lorry have not been identified and apprehended so far. It is the case of the prosecution that accused 1 to 6 are responsible for the alleged misappropriation and diversion of the load away from its destination. The 1st accused was arrested in some other crime and his arrest was formally recorded in this crime on 22.08.07. The 5th accused was arrested on 12.08.07. Investigation is not complete. The lorry and the load have not been identified. The 2nd accused, who is one of the prime miscreants, has also not been arrested so far.

3. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. He prays that the petitioners may now be directed to be enlarged on bail.

4. The learned Public Prosecutor vehemently opposes the application. The learned Public Prosecutor submits that the investigation is not complete. The load which is misappropriated has not been traced so far. The driver and the cleaner have not been ascertained and identified. In these circumstances, the investigators may be granted some further time to complete the investigation. In a serious crime like this, the investigator may be granted reasonable time to complete the investigation and resolve the mystery of the crime, submits the learned Public Prosecutor .

5. I have perused the case diary. Initially this Court entertained a doubt as to how the CITU has complained about the misappropriation of load of rubber sheets of the M.R.F. It has now been clarified that the M.R.F has not suffered any loss as the transporter has compensated the M.R.F. The defacto complainant was responsible for furnishing the truck to the transporter and therefore the defacto complainant was obliged to make the complaint, it is submitted.

6. I am satisfied in the peculiar facts and circumstances that there is merit in the opposition by the learned Public Prosecutor and that the petitioners are not entitled to be enlarged on bail at this early stage of investigation.

7. This application for regular bail is, in these circumstances, dismissed, but with the observation that the petitioners shall be at liberty to move this Court for bail again at a later stage of the investigation - not, at any rate, prior to 22.10.07. The investigator shall in the meantime make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

rtr/-